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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO	
09/824,964	04/03/2001	Josh D. Collier	SUN-P5532	1872	
22200 75	90 01/14/2005		EXAMINER		
PARK, VAUGHAN & FLEMING LLP			VINCENT, DAVID ROBERT		
702 MARSHAL SUITE 310	LL STREET		ART UNIT	PAPER NUMBER	
REDWOOD CI	TY, CA 94063		2661		
			DATE MAILED: 01/14/200	5	

Please find below and/or attached an Office communication concerning this application or proceeding.

		Application	on No.	Applicant(s)					
Office Action Summary		09/824,96	4	COLLIER ET AL.					
		Examiner		Art Unit					
		David R Vi	ncent	2661					
The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply									
THE M Extensi after SI If the po - If NO po - Failure - Any rep	RTENED STATUTORY PERIOD FOR FAILING DATE OF THIS COMMUNICATIONS of time may be available under the provisions of 37 CX (6) MONTHS from the mailing date of this communication or reply specified above is less than thirty (30) days eriod for reply is specified above, the maximum statutory to reply within the set or extended period for reply will, by the or extended period for reply will, by the created by the Office later than three months after the patent term adjustment. See 37 CFR 1.704(b).	ION. CFR 1.136(a). In no ever ion. s, a reply within the statu period will apply and will a statute, cause the appl	ent, however, may a reply be time story minimum of thirty (30) days Il expire SIX (6) MONTHS from sication to become ABANDONEI	ely filed will be considered timely. the mailing date of this communication. (35 U.S.C. § 133).	,				
Status				·					
1)□ F	Responsive to communication(s) filed on								
		This action is n	on-final.						
3)□ S	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.								
	·		ay.o, .ccc c.z, .c	· · · · · · · · · · · · · · · · · · ·					
<u> </u>	n of Claims								
 4) ☐ Claim(s) 1-21 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5) ☐ Claim(s) is/are allowed. 									
6)⊠ C	6)⊠ Claim(s) <u>1-5,7-11,13-15,17,20 and 21</u> is/are rejected.								
7) 🗌 C	7) Claim(s) <u>6,12,16,18 and 19</u> is/are objected to.								
8)□ C	claim(s) are subject to restriction a	and/or election re	equirement.	v					
Application	n Papers								
9)□ Ti	ne specification is objected to by the Exa	aminer.							
10)☐ The drawing(s) filed on is/are: a)☐ accepted or b)☐ objected to by the Examiner.									
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).									
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).									
11)□ Tł	ne oath or declaration is objected to by t	he Examiner. No	te the attached Office	Action or form PTO-152.					
Priority un	der 35 U.S.C. § 119								
a) <u></u>	cknowledgment is made of a claim for fo All b) Some * c) None of: . Certified copies of the priority docu			-(d) or (f).					
	. Certified copies of the priority docu			nn No					
	. Copies of the certified copies of the								
	application from the International B	•		3 -					
* Se	e the attached detailed Office action for	a list of the certif	ied copies not receive	d.					
Attachment(s	of References Cited (PTO-892)		4)	(DTO 442)					
	of References Cited (PTO-892) of Draftsperson's Patent Drawing Review (PTO-94	18)	4) Interview Summary Paper No(s)/Mail Da	te					
3) 🛛 Informa	tion Disclosure Statement(s) (PTO-1449 or PTO/S lo(s)/Mail Date <u>6/11/01</u> .			atent Application (PTO-152)					

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1-5 are rejected under 35 U.S.C. 102(e) as being anticipated by Shah (US 6,347,337).

As shown in Figs. 1-12, especially Figs. 9-12 and disclosed at cols. 11-19, Shah discloses a method for triggering (Figs. 9-12) the transmission of a flow control packet (FCP, data packet, col. 2, lines 2-6) between a receiving device (second end point,

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col. 7, lines 53-57) and a sending device/source (first end point/socket, col. 18, lines 56-63) comprising monitoring a threshold (col. 13, lines 1-50; col. 14, lines 22-30) for free space in a buffer, sending an FCP indicating the amount of free space (len, col. 12, line 13; col. 13, lines 20-36), to the source (sender receiving a credit update, cols. 11-19, e.g., col. 13, lines 2-5), a predetermined level (e.g., col. 13, lines 2-5), buffer falls below a bottom threshold (e.g., low water mark, col. 13, lines 2-36), the threshold is relative to a variable free space amount (e.g., col. 8, lines 49-51; col. 13, lines 27-65), setting the variable free space to the lowest level (e.g., zero during congestion, col. 12, lines 37-45; col. 13, lines 2-8; also Shah disclose using TCP which inherently uses advertised windows which indicate the amount of available buffer space at the receiver, slow start, and congestion avoidance, cols. 5-6), and recording the amount of free space (cols. 15-16, especially col. 15, lines 26-65, or col. 16, lines 31-41), as specified in claims 1-5, 15, 17, and 20-21.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
- 4. Claims 7-12, 14, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shah as set forth above, in view of Stallings ATM textbook.

However, although Shah discloses using TCP, Shah fails to particularly call for using clock cycles to send or receive the flow control packets, or FIFO buffers.

Stallings teaches that it is well known to send flow control packets (e.g., fixed length packets called cells or RM cells) when dealing with congestion or analyzing buffer availability (see e.g., RM cell comprising queue length, pg. 371; forward/backward RM cells being sent/received every 32 packets, pgs. 368-369; monitoring free space in a buffer and using FIFOs, e.g., pg. 373 under Binary Feedback Schemes). Using ATM's ABR and RM cells along with the TCP is well known (see pg. 88).

It would have been obvious to send FCPs at least once every predetermined number of clock cycles so that the source, destination or both would expect the FCPs at a certain time and may know that congestion had gotten worse or that a failure was

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experienced between the source and destination if the FCP was not received on time.

5. Claims 6, 12, 16, 18-19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David R Vincent whose telephone number is 571 272 3080. The examiner can normally be reached on M-TH.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kenneth Vanderpuye can be reached on 571 272 3078. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

David R Vincent
Primary Examiner
Art Unit 2661

January 3, 2005